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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

EXAMINER

D AGOSTA, STEPHEN M

ART UNIT PAPER NUMBER

2617

DATE MAILED: 05/04/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

RECEIVED

Application Number: 10/705,456
Filing Date: November 10, 2003
Appellant(s): CLARK ET AL.

MAY 04 2006

Technology Center 2800

Robert Peck, #56,826
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4-3-2006 appealing from the Office action mailed 1-20-2006 (Advisory Action).

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief does not include a statement that the claims do/do not stand or fall together and does not provide reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

Shapiro et al.	U.S. 2002/0120787
Fischer	U.S. 2003/0046448
Jones et al.	U.S. 6,216,173
Wookey et al.	U.S. 2003/0177259

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 3-17 were rejected under 35 U.S.C. 103. This rejection is set forth in prior Office Action, Paper No. 9 (dated 11-28-2005).

(11) Response to Argument

Two points were made in the Examiner's rejections:

a. Double Patenting rejection – The applicant did NOT address this point in the Appeal Brief. Hence the examiner assumes the applicant agrees with him on this point and will expect a terminal disclaimer to be filed at the outcome of this appeal process.

b. USC 103 prior art rejection – the examiner's rebuttal is found below.

The applicant argues that the USC 103 rejection is improper since the prior art fails to teach the claimed limitations when they are combined. The examiner disagrees for several reasons.

1) The claim language uses many broad-brushed terms which provide a difficult read and interpretation. While the applicant is entitled to writing the claims as they please, the examiner can broadly interpret these claims if/when the applicant fails to provide specifics that limit these interpretations. Case in point, the terms "generic executable service functions", "processing function-specific parameters", "associated with one of said generic service functions" and "generating a function-specific response from one of said generic executable service functions" are highly interpretable. In fact, devoid of any correlation to a specific operation or system, these terms loosely define a

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software system whereby the client computer can transmit commands to a server computer whereby the server responds with data (eg. based on the user's specific commands). The applicant is shrouding themselves in highly generic language in the hopes that it will obfuscate the examiner's ability to fully understand the invention and thereby provide relevant prior art. That said, the examiner's strategy for this application has been to find prior art which reads on the broad claims and thereby requires further amending to a state where the claims recite significantly more technical details.

2) The examiner is struck by the fact that the applicant has not provided technical details as to how the interworkings of the prior art do not combine to arrive at the claimed invention, but rather simply points out that they do not recite the "same" words as used by the applicant (eg. the appeal brief is 17 pages long and yet the arguments are only 1 page, eg. middle of page 6 to middle of page 7). The question is whether the prior art discloses functions/operations that perform the same functions/operations as the application's claims. The examiner believes the combination of prior art does – the explanation follows.

3) Summarizing claim 1, it merely discloses a computer with processor and memory comprising i) instructions for a programming interface to deliver data, ii) generic executable functions, iii) a parameter processing module that processes function-specific parameters and iv) response generating module that generates responses based on the parameters inserted into the executable functions (eg. by the user).

One skilled in the art looks at these parts as a whole and would reasonably conclude that it describes a simple software-based system whereby a user interacts with a generic program to fill in parameters (eg. blanks) to have the software program send back a computed response. The applicant has not bounded how these components can/cannot interact and/or how they can be implemented, just that their “function” and “operation” must exist.

As is seen from the examiner’s rejection, Shapiro teaches a method for an Internet user to seamlessly access a “backend” system (eg. app/data servers behind the web front-end). This inherently requires use of TCP/IP protocol and programming instructions (eg. HTTP) to allow the user to interact with the programs on the web server(s). Depending on how one wishes to interpret the claim, the “programming interface” can be viewed as the programs which are produced by a software developer and/or the actual tool/environment the developer uses (eg. on their desktop) to produce the program which is executed by the user (eg. you use a C/C++ development tool to develop a program but the user doesn’t use the development tool, they execute the program which the programmer coded). Thusly, the user in Shapiro’s figure 2 (#100) connects to the web server (#104) and executes a program on the web server (eg. which was developed by the software engineer). Shapiro shows in figures 3 and 4 the types of programming environments that the software developer will work in and be able to support. Lastly, the examiner notes that the applicant’s use of the phrase “memory coupled to the processor having a plurality of programming instructions implementing a programming interface for a service provider” can be broadly interpreted as a web

development tool that allows a developer to generate a program (using the tool) which is then ported/hosted to the web server (eg. you use the tool's web programming interface to generate the program's instructions).

From the examiner's rejection:

“...As per claims 3, 7 and 11 and 15, Shapiro teaches a computer implemented method/system/interface/medium for accessing a wireless mobile device service provider server (figures 2a-c shows system and P#63 teaches wired/wireless connections, figures 4-5, 7, 9-12), comprising:

programming interface layer function (P#64 teaches either using an HTTP request directly and/or using other executable components to broker the request to an application server, which the primary examiner interprets as encapsulating/translating a function call of a specific parameter of said request so as to retrieve data from a server. Also see P#65-70, 81 and 107-110);

a programming interface layer to facilitate delivery of data services to client devices by any of a plurality of vendors via the service provider, the interface includes plurality of generic executable functions callable by any of the plurality of vendors to facilitate delivery of a plurality of heterogeneous data services, (Shapiro shows, figure 1, a client connected to a web server with a CGI Script/Program connecting to a database, whereas figure 2 shows Application Servers (eg. vendor service providers) connecting to the web server via “generic programming interface” (eg. CGI Script). The vendors can access the web server via the callable CGI scripts)....”.

The examiner stated that Shapiro was silent on:

“...but is silent on generating a programming interface function call (eg. response) directed to said executable programming interface layer function.

Fischer teaches a “programming interface layer” for mobile/handheld devices so applications may run on any of such devices without specific programming for device specific dependencies (Abstract, figures 1-3 and P#11).

Jones teaches: “...Remote service call (RSC) manager 125 enables simple, high performance function calls to be passed between CPR services, independently of location. The remote service call manager handles the packaging or encapsulation of function calls and parameters into media objects for delivery to the appropriate service and the unpackaging at the receiving end.”. (C23, L30-65).

The examiner added Fischer to fully disclose a “programming interface layer” so that applications may run on any device without the need for specific programming which would be required for device-specific dependencies (see abstract). Hence the examiner believes that Shapiro's disclosure of Internet technology (which is a device independent technology) would combine with Fischer's programming interface layer that is device independent as well.

Jones taught communications between devices and specifically disclosed “encapsulation of function calls” which was mostly deleted by a previous amendment. The examiner does not that Jones routes data between users and servers which is analogous to the user's claims (eg. “facilitates delivery of data services to client devices by any of a plurality of vendors”, see claim 1).

4) As a last point, the examiner puts forth his interpretation of combined prior art and how he believes they read on the claims:

- Shapiro teaches a user connecting to a web server (figure 2a) whereby the web server would run an executable program/service function and display a “fill in the blank”

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web page (eg. to buy a product and/or apply for new service). After filling in the blanks, the web server will read the parameters filled-in by the user and pass them to the backend application servers and database (#108a, b and #110). These servers will process the parameters (which are function-specific to that program) and generate a response (eg. answer). This response will be sent back to the user (eg. your order has been accepted and/or your new service will start in 1 day).

- Fischer and Jones provided additional support for the terms/phrases used by the applicant in their claims such that the prior art read more closely on said claims.

5) The examiner upholds his previous rejection and finds that claims 3-17 are rejected while claims 18-22 contained novel material. The examiner had previously noted that there are other amendment variations that would be allowable as well:

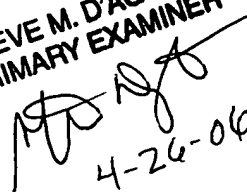
- a. claim 3 + 4 + (5 or 6)
- a. claim 7 + 8 + (9 or 10)
- a. claim 11 + 12 + (13 or 14)

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Respectfully submitted,

Stephen D'Agosta
Primary Examiner
April 26th, 2006

STEVE M. D'AGOSTA
PRIMARY EXAMINER

4-26-06

Conferees:


William Trost

Duc Nguyen

Stephen D'Agosta 
4-26-06



WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600


Supervisory DUC NGUYEN
PRIMARY EXAMINER